

EC means for transmitting the non-zero net present value bid to a plurality of bidders, said non-zero net present value bid enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.

### REMARKS

The Office Action mailed on February 11, 2003, which finally rejected claims 65, 69, and 75-83, has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. It bears noting that claim 75 was withdrawn in Applicant's last response. Thus, claims 65, 69, and 76-83 remain pending and are submitted for reconsideration by the Examiner.

Applicant respectfully asserts that pending claims 76 and 80 as amended are allowable over Burnett et al., *Effective Bid Pricing for Unit Price Contracts*, The Engineering Economist, volume 39, no. 4 (summer 1994) (the "Burnett Article") and U.S. Patent No. 6,343,277 issued to Gaus et al. ("Gaus") because it is clear that the NPV value calculated in the Burnett Article does not "represent a sum of only a series of payments to the bidder over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure," as required by these claims.

In the Burnett Article, the NPV value does not correspond a sum of only a series of payments to the bidder over a plurality of contract term segments which are discounted to a present value. The Examiner has asserted that Burnett's operating cash flows ( $OCF_i$ ), as set forth in equation (2) correspond to Applicant's claimed "series of payments." Applicant respectfully disagrees.

First, as shown by equation (1), the NPV value in Burnett is based on the discounted value of a total cash flow ( $TCF_i$ ) discounted over time, rather than the operating cash flows

(OCF<sub>i</sub>) by themselves. As shown by equations (2) and (3), Burnett's total cash flow (TCF<sub>i</sub>) is based on multiple factors including operating cash flows (OCF<sub>i</sub>), additions to net working capital (ANWC<sub>i</sub>) and capital spending (CS<sub>i</sub>) over each period. The operating cash flows (OCF<sub>i</sub>) are in turn calculated from multiple other factors including variable cost/unit, fixed costs, depreciation and a bid price. In view of the multiple factors other than bid price which are used to determine the total cash flow (TCF<sub>i</sub>), and operating cash flow (OCF<sub>i</sub>) values in Burnett, it is clear that neither the total cash flow (TCF<sub>i</sub>) or operating cash flow (OCF<sub>i</sub>) values in Burnett correspond to a sum of only a series of payments to the bidder over a plurality of contract term segments which are discounted to a present value, as required by pending independent claims 76 and 80.

Applicant also disagrees with the Examiner's continued assertion that the NPV value in Burnett could be used to effect a relative comparison of bids, as required by pending independent claims 65 and 69. In describing its "Bid-Pricing Model," the Burnett Article characterized its NPV value as follows:

"...the firm's objective is to bid a price such that the project's net present value, evaluated at the bid price and required rate of return, is equal to zero." (Page 295, first full paragraph).

Since the "NPV value" for each bidder in the Burnett model is zero, it would not possible to use NPV values from different bidders to compare bids, because all the NPV values for different bidders in Burnett would be the same, i.e., equal to zero. Obviously, the only way that NPV bids can be used as a basis for comparison is if the NPV values differ from bidder to bidder. Burnett fails to teach NPV values that differ from bidder to bidder. On the contrary, it expressly teaches away from such a notion.

Applicant further asserts that even assuming, *arguendo*, that the NPV values taught by the Burnett Article fell within the scope of the pending claim language, the Examiner's

rejection is still improper because there is no suggestion or motivation in the Burnett Article and Gaus, either alone or in combinations, to combine the teachings of the Burnett Article with Gaus, as set forth by the Examiner. In this regard, Applicants notes that the NPV bids generated in the pending claims are used to effect “a relative comparison of ...bids...on a common competitive basis.” *See, e.g.*, claims 65 and 69. Since the NPV values taught by the Burnett Article represent values which are zero (or approximately zero) for each bidder, it is clear that the Burnett NPV values could not be used to effect “a relative comparison of transformed bids... on a common competitive basis.” As stated above, the only way that NPV bids can be used as a basis for comparison is if the NPV values differ from bidder to bidder. Since Burnett fails to teach or suggest NPV values that differ from bidder to bidder, there would be no motivation to combine Burnett’s “NPV values” with Gaus as suggested by the Examiner.

Turning to the Foothills reference cited by the Examiner, Applicant notes that each of the independent claims, as amended herein, is directed to a reverse auction, i.e., an auction wherein bidders compete to supply a good or service to a buyer. This aspect of the invention is reflected in the newly added claim limitations requiring that the “non-zero net present value bid represent[ing] a sum of a series of payments to the first bidder” – as opposed to one or more payments from the bidder as would be the case in a more traditional forward auction. In addition, the preamble of each pending independent claim has been amended to expressly recite a reverse auction.

In contrast to the present reverse auction claims, the Foothills reference is directed to a forward auction. For example, page 26 of Foothills states as follows:

“Bids will be evaluated .... The available capacity will be awarded to the bid with the **highest** net present value per unit.”

The Foothills reference clearly relates to a forward auction, since that reference refers to awarding the available capacity to the "highest" bid. Accordingly, it is clear that the present reverse auction claims are not taught by Foothills.

### CONCLUSION

In view of the foregoing amendment and remarks, it is respectfully submitted that pending claims 65, 69, and 76-83 are in condition for allowance. Accordingly, reconsideration and allowance of claims 65, 69, and 76-83 are earnestly solicited. The Examiner is invited to contact the undersigned at 215-963-5055 to discuss any matter concerning this Application.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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**CLAIMS WITH MARKING TO SHOW CHANGES MADE**

65. A system for conducting an electronic reverse auction between a plurality of potential bidders, the plurality of potential bidders competing for a lot having at least one product, comprising:

means for receiving bid information from a first bidder for said lot; and

means for generating a [transformed] non-zero net present value bid using at least said bid information, said generated [transformed] non-zero net present value bid being used to effect a relative comparison of transformed bids, said relative comparison of transformed bids enabling submitted bids, defined in one or more bidder-specific contexts, to be compared on a common competitive basis;

wherein said means for generating generates [a] the non-zero net present value bid using a predefined discount rate structure and received multi-segment bidding parameters, said non-zero net present value bid representing a sum of a series of payments to the first bidder over a plurality of contract term segments which are discounted to a present value using said predefined discount rate structure.

69. A method of participating in an electronic reverse auction between a plurality of potential bidders, the plurality of potential bidders competing for a lot having at least one product, comprising the steps of:

(a) receiving bid information from a bidder for said lot;

(b) generating a [transformed] non-zero net present value bid using at least said bid information; and

(c) transmitting [transformed] the non-zero net present value bid [information] to an auction server, said [transformed] non-zero net present value bid [information] enabling said

auction server to generate a relative comparison of bids, originally defined in one or more bidder-specific contexts, on a common competitive basis;

wherein step (b) comprises the step of generating [a] the non-zero net present value bid using a predefined discount rate structure and received multi-segment bidding parameters, said non-zero net present value bid representing a sum of a series of payments to the bidder over a plurality of contract term segments which are discounted to a present value using said predefined discount rate structure.

76. A method of conducting an electronic online reverse auction between a plurality of bidders, the plurality of bidders competing for a lot having at least one product, comprising the steps of:

- (a) receiving net present value bid information from a bidder for the lot;
- (b) generating a non-zero net present value bid value using said net present value bid information, said non-zero net present value bid value representing a sum of only a series of payments to the bidder over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure; and

- (c) transmitting the non-zero net present value bid [information] to a plurality of bidders, said non-zero net present value bid information enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.

80. A system for conducting an electronic online reverse auction between a plurality of bidders, the plurality of bidders competing for a lot having at least one product, comprising:

- means for receiving net present value bid information from a bidder for the lot;
- means for generating a non-zero net present value bid value using said net present value bid information, said non-zero net present value bid value representing a sum of only a

series of payments to the bidder over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure; and

means for transmitting the non-zero net present value bid [information] to a plurality of bidders, said non-zero net present value bid [information] enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.